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ALEXANDER L. STEVAS.
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IN THE SUPREME COURT
OF THE
UNITED STATES

OCTOBER TERM, 1983

THE STATE OF ARIZONA, et al.,

Petitioners,

v.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY AND THE SOUTHERN
PACIFIC TRANSPORTATION COMPANY,

Respondents.

BRIEF OF AMICI CURIAE STATES OF
CALIFORNIA, ARKANSAS, COLORADO, GEORGIA
IDAHO, ILLINOIS, INDIANA, LOUISIANA
MONTANA, NEW MEXICO, NORTH CAROLINA
NORTH DAKOTA, OHIO, RHODE ISLAND, SOUTH
CAROLINA, SOUTH DAKOTA, TENNESSEE, UTAH
VERMONT, VIRGINIA, WASHINGTON, WISCONSIN,
AND WYOMING IN SUPPORT OF PETITION
FOR WRIT OF CERTIORARI

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AND WYOMING IN SUPPORT OF PETITION
FOR WRIT OF CERTIORARI

This amicus curiae brief is
respectfully submitted by 23 states in
support of petitioner State of Arizona,

by and through their Attorneys General.

INTEREST OF THE STATE OF CALIFORNIA

The State Board of Equalization ("Board"), the agency of the State of California at whose request this brief has been filed, has the authority to assess and collect taxes upon businesses operating in the State of California. As a part of this authority, the Board assesses and collects taxes on private railroad cars in use within the State of California.

Several railroad companies and railroad car leasing companies, challenging the Board's assessment of taxes on their private railroad cars, have filed lawsuits against the Board alleging violations of 49 U.S.C. section 11503 (a part of the Railroad Revitalization and

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Regulatory Reform Act of 1976, or the "4-R Act") and requesting injunctive relief and damages.

In several of these cases, district courts have granted injunctive relief without applying traditional equity standards. Limited to the Northern District of California, the amount of taxes enjoined in such cases exceeds \$11,000,000 per year.^{1/}

1. Trailer Train Co. v. State Board of Equalization, 511 F.Supp. 553 (N.D. Cal. 1981); 697 F.2d 860 (9th Cir. 1983); Cert. Den. Oct. 3, 1983, U.S. Supreme Court No. 83-14

Pullman Leasing Co. v. State Board of Equalization Ninth Cir. No. 82-4073

General American Transportation Co. v. State Board of Equalization Ninth Cir. No. 82-4117

Evans Railcar Leasing Co., et al. v. State Board of Equalization Ninth Cir. No. 82-4120

ACF Industries, Inc., et al. v. State Board of Equalization Ninth Cir. No. 82-4121

The Board has contended unsuccessfully in several of these cases that the district courts may not grant injunctive relief without the application of traditional equity standards. The result has been a significant loss of tax revenues to the State of California without

FOOTNOTE 1 CONT.

Southern Pac. Trans. Co. v. State of Cal.
N.D. Cal. No. C 82-6009 SW

Southern Pac. Trans. Co. v. State of Cal.
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N.D. Cal. No. C 82-8086 SW

Pullman Leasing Co. v. BOE, State of Cal.
N.D. Cal. No. C 82-6031 SW

Gen. American Trans. Co. v. State of Cal.
N.D. Cal. No. C 82-6600 SW

ACF Ind., Inc. v. State BOE, State of Cal.
Cal. N.D. Cal. No. C 82-6512 SW

consideration of any of the equities involved. It is thus of critical importance to the State of California that the issue raised by the petitioner be reviewed by this Court.

INTEREST OF AMICI STATES

The railroad companies maintain and use their railroad cars in each of the amici states. These states regularly assess and collect taxes on these railroad cars. In several of these states, district courts have granted injunctions enjoining the collection of such taxes without applying traditional equity standards. Injunctions enjoining the collection of state taxes severely disrupt the orderly and prompt collection of revenues by the states for their many ongoing and mandatory operations. Therefore, it is of profound interest to each of the amici states that the issue

raised by the petitioner be reviewed by this Court.

SUMMARY O. ARGUMENT

The Court of Appeals' decision in petitioner's case is in direct conflict with the applicable decisions of this Court and must be reversed. It was not intended by Congress in enacting the 4-R Act that district courts enjoin the collection of taxes by states and their counties without a showing of irreparable harm and without consideration of hardship to the state and their subdivisions which would result from such injunctive relief.

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ARGUMENT

I

THE COURT OF APPEALS' DECISION
IS IN DIRECT CONFLICT WITH
THIS COURT'S DECISION IN
WEINBERGER v. ROMERO-BARCELO

The Court of Appeals' decision in this case fails to apply traditional equity standards as required by this Court's decision in Weinberger v. Romero-Barcelo 456 U.S. 305 (1982). Weinberger held that unless a statute explicitly or by inescapable inference, restricts the court's jurisdiction in equity, the full scope of that jurisdiction must be recognized and applied. Citing language from its decision in Porter v. Warner Holding Co., 328 U.S. 395, 398 (1946), this Court stated in pertinent part:

"Moreover, the comprehensiveness of its equitable jurisdiction is not to be denied

or limited in the absence of a clear and valid legislative command. Unless a statute in so many words, or by a necessary and inescapable inference, restricts the court's jurisdiction in equity, the full scope of that jurisdiction is to be recognized and applied. 'The great principles of equity, securing complete justice, should not be yielded to light inferences, or doubtful construction.' Brown v. Swann 10 Pet. 497, 503." 456 U.S. at 313.

The statute in question, the 4-R Act, clearly does not limit the court's equitable jurisdiction, either explicitly or by inescapable inference.

Both the language of section

306 of the 4-R Act, and the pertinent portion of the codified version at 49 U.S.C. section 11503(c), do not contain any language which may be interpreted as restricting the jurisdiction of district courts to consider equitable principles in considering whether to grant injunctive relief thereunder. On the contrary, the words "injunction" or "injunctive relief" do not even appear in section 11503(c). Moreover, section 306 only permits district courts to issue injunctive relief as may be necessary to prevent, restrain or terminate acts violating the 4-R Act. As this language was necessary to exempt the 4-R Act from the Anti-Injunction Act, 28 U.S.C. section 1341, it is clear that such was the intent of Congress in inserting this language. Clearly, Congress in using such language did not

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intend to limit the equitable jurisdiction of district courts that was delineated in Weinberger.

II

THE COURT OF APPEALS' DECISION
IS IN DIRECT CONFLICT WITH THE
LEGISLATIVE HISTORY

The legislative history of the 4-R Act leaves no doubt that Congress did not intend that traditional equity standards be displaced in the consideration of whether to grant injunctive relief thereunder. House Rep. 94-725, 94 Cong., 1st series (1975), states in pertinent part:

"Enactment of this section will not necessarily mean the Federal Courts will enjoin all state taxation of rail property which are the subject of complaint. The railroads will still have the burden of demonstrating that discrimination

exists. They will also have to make the additional showing that they are entitled to injunctive relief. With respect to the latter issue, the courts in the exercise of equity jurisdiction will balance the adverse impact on the community of granting such relief against the benefits to the carrier from such relief. The federal courts will be able to devise remedies that will not be burdensome to the communities involved." (Emphasis added).

The above language leaves absolutely no doubt that Congress did not intend to limit the power of district courts to apply traditional equity standards, but that it specifically intended that these

standards should be applied.

As held in Weinberger, limitations on the power of district courts to apply traditional equity standards must be explicit from the language of the statute. Clearly, since no such limitations are contained in the 4-R Act, district courts are required to apply traditional equity standards in considering whether to grant injunctive relief thereunder.

CONCLUSION

For the foregoing reasons, the decision of the Court of Appeals is directly in conflict with this Court's decision in Weinberger v. Romero-Barcelo and the legislative history behind the 4-R Act.

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Accordingly, this decision must be vacated and remanded to the Court of Appeals with instructions to apply traditional standards as required by Weinberger and the legislative history of the 4-R Act.

DATED: February 8, 1984

Respectfully submitted,

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CERTIFICATE OF SERVICE

SUPREME COURT OF THE
UNITED STATES

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I, Calvin J. Abe, Deputy Attorney General, Certify as follows:

1. I am a member of the bar of the Supreme Court of the United States.

2. My business address is 6000 State Building, San Francisco, California 94102.

3. On February 9, 1984, to my knowledge, a copy of the foregoing BRIEF OF AMICI CURIAE STATES IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI was mailed within the permitted time in the following manner, addressed as follows:

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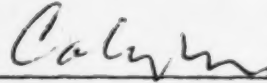
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Leslie Jones
2600 North Central Avenue
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A copy of the aforesaid brief was enclosed in said envelopes, and said envelopes was then sealed, with postage thereon fully prepaid, and deposited in the United States mail at San Francisco, California, on February 9, 1984.

I certify that the foregoing is true and correct.

Executed at San Francisco, California this 9th day
of February, 1984.

A handwritten signature in cursive script, appearing to read "Calvin", is written over a horizontal line.

CALVIN J. ABE

CERTIFICATE OF MAILING

SUPREME COURT OF THE)
)
UNITED STATES)

I, Calvin J. Abe, Deputy Attorney General, certify as follows:

1. I am a member of the bar of the Supreme Court of the United States.
2. My business address is 6000 State Building, San Francisco, California 94102.
3. On February 9, 1984, to my knowledge, an original and 40 copies of the foregoing BRIEF OF AMICI CURIAE STATES IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI was mailed within the permitted time in the following manner:

Under my direction, a package was addressed as follows:

Alexander L. Stevas, Clerk
Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543

An original and forty copies of the aforesaid brief were enclosed in said package, and said package was then sealed, with postage thereon fully prepaid, and deposited in the United States mail at San Francisco, California, on February 9, 1984.

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I certify that the foregoing is true and correct.

Executed at San Francisco, California this 9th day of
February, 1984.

Calvin J. Abe
CALVIN J. ABE

State of California
City and County of San Francisco

)
) ss On February 9, 1984,
) Before me, the

undersigned, a Notary Public in and for said County and State,
personally appeared Calvin J. Abe, known to me to be the person
whose name is subscribed to the within instrument, and
acknowledged to me that he executed the same.

Subscribed and sworn to before me
on this 9th day of February, 1984.

Melinda M. Gee
Melinda M. Gee
Notary Public in and for
said County and State

